



W.P.(MD).No.1103 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

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and

W.M.P.(MD).Nos.927 and 4851 of 2017

Y-45 Parthivapuram Munchirai Primary
Agricultural Co-operative Credit Society,
Pudukadai Post,
Kanyakumari District,
Represented by its President

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies (FAC),
Nagercoil Region,
Kanyakumari District.

2.A.Bright Edwin

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent in Na.Ka.6823/2015 Sa Pa dated 22.12.2016 and quash the same as illegal.



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For Petitioner : Mr.M.E.Ilango
For R-1 : Mr.A.Baskaran,
Additional Government Pleader.
For R-2 : Mr.T.Murugan

ORDER

This Writ Petition is filed by the Society to quash the revisional authority order passed in Na.Ka.6823/2015 Sa Pa dated 22.12.2016.

2. The second respondent was appointed in the petitioner's Society as a temporary Salesman in the year 1996 and was regularized in the year 2000. Since the second respondent committed serious misconducts, he was placed under suspension vide order dated 16.02.2015 and a charge memo dated 02.06.2015 was issued framing two charges. The first charge is that, in the ration card No.30/G/0061562 belonging to register No.104 A Register, a member had been added on 23.08.2013 and even though additional rice and other commodities were not provided till 2014 and for the said ration card the second respondent had not made any price list and have made entries only in the ration card and have made fraudulent entries in the A register after being



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reinstated in service after suspension. The second charge is that the second respondent prepared a register by stating that Pongal gifts of Rs.100/- and other materials were given to all the ration card holders but, the second respondent without giving the Pongal gift Rs.100/- and materials to the above said A register No.104 ration card holder, thereby committed fraud. Then on 20.05.2014, the second respondent stolen the jewel loan card from the office of the Society and had made false entries, as if he had a jewel loan in No.1391 dated 20.05.2014 for a sum of Rs.1,56,000/- and also forged the signature of the Senior Clerk. After conducting enquiry, the petitioner's Society has held the charges are proved and thereafter, punishment of dismissal from service was imposed. Aggrieved over the same, the second respondent preferred a Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. The Revisional authority after hearing the second respondent and after perusing the records has held that the Charge No.1 is not proved, but the Charge No.2 is partly proved and Charge No.3 is not proved and the Revision Petition was allowed by quashing the punishment order of dismissal from service and directed the petitioner's Society to reinstate the second respondent. Aggrieved over the same, the petitioner's Society has preferred this Writ Petition.



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3. The Learned Counsel appearing for the second respondent substantiated the reasons stated in the order of the revisional authority and prayed to dismiss this Writ Petition.

4. Heard Mr.M.E.Ilango, learned counsel for the petitioner and A.Baskaran, learned Additional Government Pleader for the first respondent and Mr.T.Murugan, learned counsel for the second respondent.

5. The contention of the petitioner's Society is that the revisional authority had accepted that the second charge is proved, having accepted the revisional authority ought not to have quashed the punishment order and directed the petitioner's Society to reinstate the second respondent. This would amount as if the second respondent has not committed any offences at all. Moreover, the charges 2 and 3 are serious and grave in nature. The revisional authority having accepted that the second respondent has not paid Rs.100 and Pongal gifts to the ration card holders which will amount to misappropriation and fraud committed on the Society. The second charge was also dealt very casually by the revisional authority. The third charge was against the sister of



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the second respondent. The Revisional authority has held it is a crime committed against the sister and not the Society which cannot be accepted. Even the second respondent accepted in his explanation that he has cheated his sister.

6. On perusing the averments and the enquiry report and the submissions of the petitioner's Society as well as the second respondent, this Court is of the considered opinion that the second respondent has clearly misused his office and has cheated his sister and consequently has cheated the Society. The relationship between the petitioner's Society and the second respondent cannot be taken into account for such transaction. The relationship cannot be a criteria to determine this kind of transaction. This Court is setting aside the order passed by the Revisional authority. However, taking into consideration the second respondent has served in the Society from 01.06.1996 to 16.09.2015, for more than 16 years, therefore, this Court is inclined to modify the punishment from dismissal of service to compulsory retirement. The petitioner's Society is directed to take into account the service of the second respondent from the date of original appointment that is from 01.06.1996 until the date of dismissal i.e. 16.09.2015 and grant monetary, service and terminal benefits to the second



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respondent. For a period from 2015 to till the date of filing of this Writ Petition that is on 23.01.2017, the second respondent is entitled to service benefits alone and not monetary benefits. The entire exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above modification, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.12.2022

Index : Yes / No
Internet : Yes/ No
Nsr

To

The Joint Registrar of Co-operative Societies (FAC),
Nagercoil Region,
Kanyakumari District.



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S.SRIMATHY, J.

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